

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STEPHEN ELLICOTT,
Plaintiff,

v.

AMERICAN CAPITAL ENERGY, INC.,
THOMAS HUNTON, and
ARTHUR HENNESSEY,

Defendants.

Civil Action No. 1:14-cv-12152-FDS

ANSWER TO COMPLAINT

Defendant Arthur Hennessey (“Hennessey” or the “Defendant”) herein answers Stephen Ellicott’s Complaint, stating as follows:

1. This introductory paragraph requires no response. Insofar as the statement purports to assert factual allegations, those allegations are denied.
2. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.
3. Admitted.
4. Admitted.
5. Admitted.
6. This paragraph asserts a conclusion of law to which no response is required. To the extent a response is required, Defendant denies the allegation.
7. This paragraph asserts a conclusion of law to which no response is required. To the extent a response is required, Defendant denies the allegation.
8. This paragraph asserts a conclusion of law to which no response is required. To the extent a response is required, Defendant denies the allegation.

9. This paragraph asserts a conclusion of law to which no response is required. To the extent a response is required, Defendant denies the allegation.
10. This paragraph asserts a conclusion of law to which no response is required. To the extent a response is required, Defendant denies the allegation.
11. Admitted.
12. Defendant admits that Ellicott became an employee of ACE in 2007. Defendant asserts that the terms of the document attached as Exhibit A speak for themselves and, accordingly, no further response is required.
13. Defendant lacks sufficient information to admit or deny the remaining allegations within this paragraph and therefore denies same.
14. Defendant lacks sufficient information to admit or deny the remaining allegations within this paragraph and therefore denies same.
15. Denied.
 - a. Denied.
 - b. Denied.
 - c. Denied.
 - d. Denied.
 - e. Denied.
 - f. Denied.
 - g. Denied.
 - h. Denied.
16. Defendant lacks sufficient information to admit or deny the remaining allegations within this paragraph and therefore denies same.

17. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.
18. Denied.
19. Denied.
20. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.
21. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.
22. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.
23. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.
24. Defendant incorporates by reference the foregoing responses to Plaintiff's Complaint.
25. Defendant lacks sufficient information to admit or deny the remaining allegations within this paragraph and therefore denies same.
26. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.
27. Denied.
28. This paragraph asserts a conclusion of law to which no response is required. To the extent a response is required, Defendant denies the allegation.
29. This paragraph asserts a conclusion of law to which no response is required. To the extent a response is required, Defendant denies the allegation.

30. This paragraph asserts a conclusion of law to which no response is required. To the extent a response is required, Defendant denies the allegation.

31. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.

32. This paragraph asserts a conclusion of law to which no response is required. To the extent a response is required, Defendant denies the allegation.

33. Defendant incorporates by reference the foregoing responses to Plaintiff's Complaint.

34. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.

35. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.

36. Denied.

37. Defendant lacks sufficient information to admit or deny the allegations within this paragraph and therefore denies same.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Some or all of Plaintiff's claims are barred due to Plaintiff's breaches.

SECOND AFFIRMATIVE DEFENSE

Some or all of Plaintiff's claims must be dismissed for failure to state a claim upon which relief may be granted.

THIRD AFFIRMATIVE DEFENSE

The Plaintiff's complaint is barred due to Plaintiff's unclean hands and failure to mitigate damages.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff is estopped by his own actions from asserting some or all of the claims herein.

FIFTH AFFIRMATIVE DEFENSE

If the Plaintiff suffered injury or damages as alleged, which Defendant expressly denies, then said injury or damages were caused by the acts or omissions of the Plaintiff or third person(s) over whom Defendant had no control and for whom the Defendant is not legally responsible.

SIXTH AFFIRMATIVE DEFENSE

Any amounts due and owing to Plaintiff are subject to offsets and recoupments against amounts owing to Defendant.

Hennessey reserves the right to assert additional affirmative defenses.

Wherefore, Hennessey prays that this Court:

1. Enter Judgment in Hennessey's favor on all counts;
2. Award Hennessey his costs and expenses;
3. Award such other and further relief as this Court deems just and proper.

ARTHUR HENNESSEY DEMANDS TRIAL BY JURY ON ALL COUNTS SO TRIABLE

Respectfully submitted,
Arthur Hennessey,
By his attorneys,

/s/ Robert K Dowd
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Dated: May 19, 2014

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document filed though the CM/ECF system will be sent electronically to the registered participants as identified on the NEF (NEF) and paper copies will be sent to those indicated as non registered participants on this 19th day of June, 2014.

/s/ Robert K Dowd
Robert K. Dowd (BBO# 132800)